IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6445 OF 2002

Administrator of the specified
undertaking of the Unit Trust
of India .... Petitioner

versus

The Chief Controlling Revenue
Authority ... .Respondents.

Mr. Rirdaush Pooniwala along with Mr. Rohini Sheller
i/b. Humranwala & Co. for the petitioner.
Shri S.R.Nargolkar AGP for Respondent no.1.

CORAM; V.G. PALSHIKAR &
V.R. KINGAONKAR, JJ.

DATED; 10TH APRIL, 2006.

P.C:

1. By this petition, the petitioner has impugned the communication dated 15th October 2001 by which the respondent, Inspector General of Registration & Controller of Stamps, Maharashtra State, Pune informing the petitioner that if the petitioner so desires, he may approach the High court directly for exercising the powers under section 54 of the Bombay Stamp Act 1958.

2. Section 54 of the above Act provides that the Chief Controlling Revenue Authority may refer any case to the High Court on an application made to it by interested

party within such period as the Chief Controlling Revenue Authority may decide. From the language of section 54 it is clear that it is the judicial discretion granted to the Chief Controlling Revenue Authority by section 54. It has therefore to be exercised judiciously and the application made under that section, has to be decided in accordance with the law, giving adequate opportunity of hearing and a speaking order deciding the contentions raised by it has to be made. The impugned communication is a two line letter which says that if the petitioner so desires, he may approach High Court directly. It is obviously refusal on the part of the respondent Chief Controlling Revenue Authority to exercise the jurisdiction authorised in him by section 54 of the Act. This failure to exercise jurisdiction is liable to be corrected by issuing a direction under section 227 of the Constitution of India. Accordingly, we allow the petition, set aside the impugned communication by directing the Chief Controlling Revenue Authority mentioned in section 54 of the Act, to decide the application made by the petitioner under section 54(1)(b) of the Act as early as possible, preferably in three months from the date of receipt of this order. Petition is therefore disposed of.

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